IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7658 of 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMJIBHAI HARJIBHAI PATEL - Petitioner(s)

Versus

STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :

MR MUKUND M DESAI for Petitioner(s) : 1,
Mr. MR Mengdey, AGP for Respondent(s) : 1 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 26/09/2005

ORAL JUDGMENT

In this petition under Article 227 of the Constitution of India, the petitioner has challenged the legality and validity of the judgment and order passed by the Gujarat Revenue Tribunal dated 28th February 1989 in dismissing the said revision application and confirming the order passed by the

Prant Officer, Gandhinagar, dated 15th July 1987 in Tenancy Case No. 3379/1983 and also the order passed by the Mamlatdar, ALT, Gandhinagar, dated 1.4.1984.

2. It appears from the record that the petitioner purchased the land bearing Survey No. 159/4 admeasuring 0 Acre and 28 Gunthas of land situate at Village Valad from one Nathaji Hiraji. The Mamlatdar and ALT initiated the proceedings under Section 84 of The Bombay Tenancy and Agricultural Lands Act [“the Tenancy Act” for short] on the ground that the transaction in favour of the petitioner is illegal as the petitioner was not an agriculturist within the radius of 8 Kms., and the Mamlatdar and ALT passed an order dated 1.4.1984 forfeiting the land to the State Government. Being aggrieved and dissatisfied with the order passed by the Mamlatdar and ALT, Gandhinagar, dated 1.4.1984 in Tenancy Case No. 3379/1983 the petitioner preferred appeal before the Prant Officer being Appeal No. 24/85 which came to be dismissed by order dated 15.7.1987. Being aggrieved and dissatisfied with the said order the petitioner preferred Revision Application No. 580/1987 and the Gujarat Revenue Tribunal by judgment and order dated 28th February 1989 dismissed the said revision application. It appears that the petitioner preferred Revision Application before the Gujarat Revenue Tribunal which also came to be dismissed against which the petitioner has preferred the present Special Civil

Application under Article 227 of the Constitution of India.

3. Shri Chauhan, learned advocate appearing on behalf of the petitioner has submitted that in view of the amendment in Section 2 of The Bombay Tenancy and Agricultural Lands Act, by Gujarat Act No. 4 of 1995 and Ordinance No. 5 of 2000 the present Special Civil Application is abated. In support of his above submission, he has relied upon the judgment of this Court in the case of Meruben, C/o. Sorabji Pestanji Bhatporiya & W/o. Late Peshi Morena & Anr. Vs. Additional Special Secretary, Revenue Department (Disputes) & Ors., reported in 2002(1) GLR Page 640. In view of the above facts and considering the amendment in Section 2 by Gujarat Act No. 4/1995, the present Special Civil Application is ordered to be abated and consequentially all the other proceedings under Section 84-C are also abated. Rule is made absolute to the aforesaid extent, however, there will be no order as to costs.

[M.R. Shah, J.]

RMR.